

**347—218.107(91D) Discretionary powers.**

**218.107(1)** An exempt executive employee shall customarily and regularly exercise discretionary powers. A person whose work is so completely routinized that the person has no discretion does not qualify for exemption.

**218.107(2)** The phrase “customarily and regularly” signifies a frequency which must be greater than occasional but which may be less than constant. The requirement will be met by the employee who normally and recurrently is called upon to exercise and does exercise discretionary powers in the day-to-day performance of duties. The requirement is not met by the occasional exercise of discretionary powers.

SOURCE: 29 CFR 541.107.